

Department of Veterans Affairs

§ 14.635

notice of intent to cancel accreditation. The hearing officer will have authority to administer oaths. The party requesting the hearing will have a right to counsel, to present evidence, and to cross-examine witnesses. Upon request of the individual requesting the hearing, an appropriate VA official designated in §2.1 of this chapter may issue subpoenas to compel the attendance of witnesses and the production of documents necessary for a fair hearing. The hearing shall be conducted in an informal manner and court rules of evidence shall not apply. Testimony shall be recorded verbatim. The evidentiary record shall be closed 10 days after the completion of the hearing. The hearing officer shall submit the entire hearing transcript, any pertinent records or information, and a recommended finding to the Assistant General Counsel within 30 days of closing the record. The Assistant General Counsel shall immediately forward the record and the hearing officer's recommendation to the General Counsel for a final decision.

(g) The General Counsel may suspend the accreditation of a representative, agent, or attorney, under paragraphs (b), (c), or (d) of this section, for a definite period or until the conditions for reinstatement specified by the General Counsel are satisfied. The General Counsel shall reinstate an individual's accreditation at the end of the suspension period or upon verification that the individual has satisfied the conditions for reinstatement.

(h) The decision of the General Counsel is a final adjudicative determination of an agency of original jurisdiction and may be appealed to the Board of Veterans' Appeals. The effective date for cancellation of accreditation or authority to provide representation on a particular claim shall be the date upon which the General Counsel's final decision is rendered. Notwithstanding provisions in this section for closing the record at the end of the 30-day period for filing an answer or 10 days after a hearing, appeals shall be initiated and processed using the procedures in 38 CFR parts 19 and 20. Nothing in this section shall be construed to limit the Board's authority to remand a matter to the General Counsel under

38 CFR 19.9 for any action that is essential for a proper appellate decision or the General Counsel's ability to issue a Supplemental Statement of the Case under 38 CFR 19.31.

(i) In cases where the accreditation of an agent or attorney is cancelled, the Office of the General Counsel may notify all agencies, courts, and bars to which the agent or attorney is admitted to practice.

(Authority: 38 U.S.C. 501, 5902, 5904)

(The Office of Management and Budget has approved the information collections requirements in this section control number 2900-0018)

[53 FR 52422, Dec. 28, 1988, as amended at 72 FR 58012, Oct. 12, 2007; 73 FR 29874, May 22, 2008]

§ 14.634 Banks or trust companies acting as guardians.

Banks or trust companies, corporate entities, acting as guardians for claimants, may be represented before adjudicating agencies as authorized representatives of claimants by an officer or employee, including a regularly employed attorney, if the employee or attorney represents the corporation in its fiduciary capacity.

(Authority: 38 U.S.C. 5903, 5904)

[43 FR 46535-46537, Oct. 10, 1978. Redesignated and amended at 57 FR 4104, Feb. 3, 1992; 68 FR 8547, Feb. 24, 2003]

§ 14.635 Office space and facilities.

The Secretary may furnish office space and facilities, if available, in buildings owned or occupied by the Department of Veterans Affairs, for the use of paid full-time representatives of recognized national organizations, and for employees of recognized State organizations who are accredited to national organizations, for purposes of assisting claimants in the preparation, presentation, and prosecution of claims for Department of Veterans Affairs benefits.

(a) Request for office space should be made by an appropriate official of the organization to the Director of the Department of Veterans Affairs facility in which space is desired and should set forth:

§ 14.636

38 CFR Ch. I (7-1-13 Edition)

(1) The number of full-time paid representatives who will be permanently assigned to the office;

(2) The number of secretarial or other support staff who will be assigned to the office;

(3) The number of claimants for whom the organization holds powers of attorney whose claims are within the jurisdiction of the facility or who reside in the area served by the facility, the number of such claimants whose claims are pending, and the number of claims prosecuted during the previous three years; and

(4) Any other information the organization deems relevant to the allocation of office space.

(b) When in the judgment of the Director office space and facilities previously granted could be better used by the Department of Veterans Affairs, or would receive more effective use or serve more claimants if allocated to another recognized national organization, the Director may withdraw such space or reassign such space to another organization. In the case of a facility under the control of the Veterans Benefits Administration or the Veterans Health Administration, the final decision on such matters will be made by the Under Secretary for Benefits or the Under Secretary for Health, respectively.

(Authority: 38 U.S.C. 501(a), 5902)

[53 FR 52423, Dec. 28, 1988. Redesignated and amended at 57 FR 4104, Feb. 3, 1992; 68 FR 8547, Feb. 24, 2003]

§ 14.636 Payment of fees for representation by agents and attorneys in proceedings before Agencies of Original Jurisdiction and before the Board of Veterans' Appeals.

(a) *Applicability of rule.* The provisions of this section apply to the services of accredited agents and attorneys with respect to benefits under laws administered by VA in all proceedings before the agency of original jurisdiction or before the Board of Veterans' Appeals regardless of whether an appeal has been initiated.

(b) *Who may charge fees for representation.* Only accredited agents and attorneys may receive fees from claimants or appellants for their services provided in connection with representa-

tion. Recognized organizations (including their accredited representatives when acting as such) and individuals recognized under §14.630 of this part are not permitted to receive fees. An agent or attorney who may also be an accredited representative of a recognized organization may not receive such fees unless he or she has been properly designated as an agent or attorney in accordance with §14.631 of this part in his or her individual capacity as an accredited agent or attorney.

(c) *Circumstances under which fees may be charged.* Except as noted in paragraph (c)(2) and in paragraph (d) of this section, agents and attorneys may charge claimants or appellants for representation provided: after an agency of original jurisdiction has issued a decision on a claim or claims, including any claim to reopen under 38 CFR 3.156 or for an increase in rate of a benefit; a Notice of Disagreement has been filed with respect to that decision on or after June 20, 2007; and the agent or attorney has complied with the power of attorney requirements in §14.631 and the fee agreement requirements in paragraph (g) of this section.

(1) Agents and attorneys may charge fees for representation provided with respect to a request for revision of a decision of an agency of original jurisdiction under 38 U.S.C. 5109A or the Board of Veterans' Appeals under 38 U.S.C. 7111 based on clear and unmistakable error if a Notice of Disagreement was filed with respect to the challenged decision on or after June 20, 2007, and the agent or attorney has complied with the power of attorney requirements in §14.631 and the fee agreement requirements in paragraph (g) of this section.

(2) In cases in which a Notice of Disagreement was filed on or before June 19, 2007, agents and attorneys may charge fees only for services provided after both of the following conditions have been met:

(i) A final decision was promulgated by the Board with respect to the issue, or issues, involved in the appeal; and

(ii) The agent or attorney was retained not later than 1 year following the date that the decision by the Board was promulgated. (This condition will